



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 5, 2004

Ms. Veronica Ocanas
Assistant City Attorney
City of Corpus Christi
P. O. Box 9277
Corpus Christi, Texas 78469-9277

OR2004-0003

Dear Ms. Ocanas:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 193740.

The City of Corpus Christi (the "city") received a request for "the names of every individual who has filed a complaint against the Texas Treasure in the last two (2) years and any supporting documentation to which I am entitled." You claim that the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

You claim that the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 2000e-5(b) of title 42 of the United States Code.¹ Section 2000e-5(b) states in relevant part:

Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the [Equal Employment Opportunity] Commission, alleging that an employer . . . has engaged in an unlawful employment practice, the [EEOC] shall serve a notice of the charge . . . and

¹ Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. See Gov't Code § 552.101. Section 552.101 encompasses information that is protected from disclosure by other statutes.

shall make an investigation thereof. . . . Charges shall not be made public by the [EEOC].

42 U.S.C. § 2000e-5(b). We note that the EEOC is authorized by statute to utilize the services of state and local fair employment practices agencies to assist in meeting its statutory mandate to enforce laws prohibiting discrimination. *See* 42 U.S.C. § 2000e-4(g)(1). You have previously informed this office that the city's Commission on Human Relations (the "CHR") is a local agency that is authorized by section 21.152 of the Labor Code to investigate complaints of employment discrimination as provided by section 21.204 of the Labor Code and that it has a contract and "work sharing agreement" with the EEOC. *See* Labor Code § 21.152 (providing for creation of local commissions); *see also* 40 T.A.C. § 325.4 (authorizing cooperative agreements between Texas Commission on Human Rights (the "commission") and local commissions). Section 21.204 provides for investigations by the commission. *See* Labor Code § 21.204. The EEOC and the commission can defer jurisdiction to local commissions. *See* Labor Code § 21.154.

We further note that section 21.304 of the Labor Code provides:

An officer or employee of the commission may not disclose to the public information obtained by the commission under Section 21.204 except as necessary to the conduct of a proceeding under this chapter.

Labor Code § 21.304. Section 21.305 of the Labor Code concerns the release of records of the commission to a party to a complaint filed under section 21.201. Section 327.9 of title 40 of the Texas Administrative Code also governs a party's access to the commission's records. Section 327.10 of title 40 further provides limitations on the public's access to commission records.² You inform us that the CHR processed the complaints relating to the submitted information on behalf of the EEOC under chapter 21 of the Labor Code. You do not inform us that the requestor is a party or represents a party to any proceeding associated with the submitted information. Accordingly, we conclude that the submitted information is

² Section 327.10 provides as follows:

(a) No officer or employee of the commission may make public any information obtained by the commission under its authority under the Texas Labor Code, §§ 21.201-21.207, except as necessary to the conduct of a proceeding under this Act.

(b) No commissioner or employee of the commission may make public, without the written consent of the complainant and respondent, information about the efforts in a particular case to resolve an alleged discriminatory practice by conference, alternative dispute resolution, conciliation, or persuasion, whether or not there is a determination of reasonable cause.

confidential under section 21.304 of the Labor Code and must be withheld from disclosure pursuant to section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

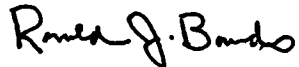
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this

ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald J. Bounds". The signature is fluid and cursive, with the first name "Ronald" being more prominent.

Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/lmt

Ref: ID# 193740

Enc. Submitted documents

c: Ms. Kathleen L. Day
Attorney at Law
P. O. Box 1517
Corpus Christi, Texas 78403
(w/o enclosures)